

U.S. DISTRICT COURT
DISTRICT OF OREGON

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

THEODORE C. LANGE,

Plaintiff,

Civil No. 05-3054-TC

v.

ORDER

GALE NORTON, Secretary of
the Interior,

Defendant.

COFFIN, Magistrate Judge.

Plaintiff filed this action alleging violations of the Age Discrimination Act, 29 U.S.C. §§ 621, et seq. By Order (#32) entered July 31, 2006, plaintiff's Motion for Summary Judgment (#21) was denied. Plaintiff's Motion for Reconsideration (#33) was denied on August 10, 2006. See, Order (#35). Plaintiff now moves for "Summary Judgment Upon Reconsideration (#46).

As explained in the Court's Order (#32), summary judgment

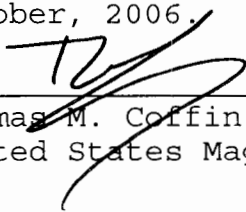
is proper if "the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Fed. R. Civ. P. 56 (c); see also, Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986).

In order to prevail on an age discrimination claim, plaintiff must establish, inter alia, that he was satisfactorily performing his job. See, O'Connor v. Consolidated Coin Caterers Corp, 517 U.S. 308, 312-13 (1986).

The record before the court establishes that a genuine issue of material facts exists as to whether plaintiff was adequately performing his job prior to the job reassignment giving rise to his claims herein.

Plaintiff's Motion for Summary Judgment Upon Reconsideration (#46) is denied.

DATED this 16 day of October, 2006.



Thomas M. Coffin
United States Magistrate Judge